Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

PATRICK ANENE EGBUNE,
Petitioner,

v.

STATE OF COLORADO,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE COLORADO SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

Patrick Anene Egbune
818 South Chambers Road, #302
Aurora, Colorado 80017
(303)745-7519

QUESTIONS PRESENTED

1. Whether due process of law under federal constitution pursuant to the 14th Amendment to the United States Constitution is violated when a state court criminal convictions disregard exculpating evidence and an innocent person is convicted thereby

2. Whether a state court, consonant to due process of law, under the 14th Amendment to the United States Constitution, may pursue immoral and illegal criminal action against an innocent citizen in retaliation for legitimate cases brought against the state before the Supreme Court of the United States.

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Dated January 20, 2004

Appendix B - Appellate Opinion of the District Court, Arapahoe County, State of Colorado.
Dated July 25, 2003

Appendix C - Transcript of Trial Court decision following trial; dated November 22, 2002

The Petitioner, Patrick Anene Egbune, respectfully petitions for a writ of certiorari to review the judgment of the Supreme Court of Colorado and correct the fraud in Colorado judicial system, that the Petitioner has, in a pleading to the Colorado Supreme Court, referred to as a judiciary that is run as a "cult" - Facts are not followed, finding beyond a reasonable doubt is merely announced and given benign neglect, truth is suppressed and covered by spurious citation of authorities, evidence is established by concocted stories developed during sexual escapades, which is then justified by further citation of statute that allows witnesses, including police to lie. Petitioner, Patrick Anene Egbune, pleads that this honorable court after reviewing this petition to its conclusion, that a full and complete justifiable legal mandate be issued on this matter .

OPINIONS BELOW

The order of the Supreme Court of Colorado, the highest court of the state of Colorado, affirming the decisions of the lower courts is reproduced in Appendix A; no written opinion was issued. The appellate Opinion of the District Court of Arapahoe County, state of Colorado is reproduced in Appendix B. The transcript of the decision of Aurora Municipal Court, the trial court, is reproduced in Appendix C.

STATEMENT OF JURISDICTION

The order sought to be reviewed was entered on January 20, 2004, by the Supreme Court of Colorado, Case No. 03-SC-647, affirming the decision of the District Court of Arapahoe County, Case No. 02-CV-4612, being the Opinion and Order affirming the wrongful decision of Judge Stine, Aurora Municipal Court, Case No. C-89955. The decisions of the

courts appear in Appendices.

The jurisdiction of this Court is invoked under the provision of 28 U. S. C. § 1257 (a) for Petition of Certiorari to the Supreme Court of the State of Colorado concerning the Order convicting him of assault and disorderly conduct, offenses he did not commit

No rehearing nor extension of time for filing of the petition for certiorari was requested.

This Petition for certiorari, does not challenge the constitutionality of any statute of Congress, therefore, the notification requirement of this Court's Rule 29.4(b) is not required to be made.

This Petition for certiorari, does challenge the constitutionality of a State statute, viz.: State of Colorado's Revised Statute, Title 16 page 231, §16-10-201 , however, the State of Colorado is a party to this action, thus, the notification requirement of this Court's Rule 29.4(c) is not required to be made.

STATUTE INVOLVED

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THIS CASE

Section 1, 14th Amendment to the United States Constitution:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal

protection of the laws.

Colorado Criminal Proceedings.

Title 16 - page 231, § 16-10-201

Inconsistent Statement of witness - competency of evidence states:(1) Where a witness in a criminal trial has made a previous statement inconsistent with his testimony at trial, the previous inconsistent statement may be shown by any otherwise competent evidence and is admissible not only for the purpose of impeaching the testimony of the witness, but also for the purpose of establishing a fact to which his testimony and the inconsistent statement relate, if:

1. The witness, while testifying, was given an opportunity to explain or deny the statement or the witness is still available to give further testimony in the trial; and

2. The previous inconsistent statement purports to relate to a matter within the witness's own knowledge.

STATEMENT OF THE CASE

A writ of certiorari was filed with the Supreme Court of the State of Colorado and the statement of the petition, is hereby presented as the statement of the case herein, and was never disputed by the respondent or any of its agents, as follows:

COMES NOW the Petitioner, Patrick Anene Egbune, and requests that **a writ of certiorari** issue to review the judgment of the district court, county of Arapahoe, state of Colorado, (hereinafter "district court") entered on July 25, 2003, in the case entitled Patrick Anene Egbune, Appellant v. The People of the City of Aurora, by and on behalf of the State of Colorado, Appellee, case no. 02-CV-4612, Division 206. The final judgment of the district court affirmed the decision of the municipal court of the city of Aurora, convicting Patrick Anene 38Egbune of the crime of battery and disorder conduct, offenses that he is **innocent** of and never committed.

OPINIONS BELOW

The transcript of the hearing before the municipal court and the Judgment on Appeal issued by the district court in this case, are attached as **Appendix 1 and 2** respectively, to this petition.

JURISDICTION

The judgment of the district court was entered on July

25, 2003. Patrick Anene Egbune erroneously filed a notice of appeal to the Court of Appeal, State of Colorado within 45 days. The people were on notice that Patrick Anene Egbune would not accept the judgment below. The issues noticed to the Court of Appeal is the same issues that are being presented herein. Filed contemporaneously with this petition is a motion for extension of time (**Appendix 3**), wherein Patrick Anene Egbune discloses that he has been labouring from injuries sustained in an automobile accident, (See **Appendix 4**, Affidavit concerning automobile Accident), which makes it extremely difficult to do in days, things that he was able to do in seconds prior to the accident. On September 15, 2003, the Court of Appeal granted the people's motion to dismiss the Notice of Appeal for lack of subject matter jurisdiction.

The only review pursuant to C. R. S. §113-10-116 and C. R. S. 13-6-310 of the cases below, is by certiorari to the Supreme Court, which does not qualify for immediate transfer from the Court of Appeal, pursuant to C. R. S. §13-4-110. Were it not for Patrick Anene Egbune's injuries from an automobile accident, he would have been able to file the petition for writ of certiorari on the day that motion to dismiss the Court of Appeals Notice was filed, which would have been within the 45 days required under the rules. The people are not prejudiced by the late filing of this petition in that substantial justice is hereby invoked because of the conviction of the **innocent**. Patrick Anene Egbune is a pauper and could not seek help under the circumstances. (See **Appendix 5**, affidavit to proceed in forma pauperis). The "people" of the State of Colorado, do not have legitimate interest in using governmental power to file false charges against the Petitioner, made false arrest of the Petitioner and then, use governmental power to convict Petitioner though they knew or have reason to know that he is an innocent person. The "people" of the State of Colorado do not have legitimate interest in conviction of an

individual, supported exclusively by immoral and illegal conduct and activities. Activities the Supreme Court of the State of Colorado, when acting in its proper and esteemed position, should be expected to call "outrageous".

QUESTIONS PRESENTED

1. Whether conviction of the Defendant-Appellant, Patrick Anene Egbune could be based on a claim of a verbal out of court statement unsupported by testimony under oath where the said out of statement is contradicted by another signed out of court document submitted as Exhibit A.

2 Whether conviction denies Patrick A. Egbune reasonable doubt existing under the circumstances of the case.

3. Whether due process of law under state and federal constitution pursuant to the 14th Amendment to the United States Constitution and Article II, §25, of the Constitution of the State of Colorado is implicated when convictions disregard exculpating evidence and an innocent person is convicted thereby

STATEMENT. OF THE CASE

The facts in this case are not convoluted. The Defendant-Appellant, Patrick Anene Egbune was stopped on June 25, 2002 as he was going home from work, by a City of Denver police

officer, because of expired vehicle license plate. The police officer then told Patrick Anene Egbune that he has to arrest him because of warrant pending against him. Patrick Anene Egbune told the officer he has not done anything that would cause a warrant to be posted against him. Patrick Anene Egbune was taking into police custody until bailed. Patrick Anene Egbune was given information to appear for arraignment at Aurora Municipal Court.

On July 23, 2002, Patrick Anene Egbune appeared at Aurora Municipal Court as required. He was served City of Aurora summons C 89955 dated July 9, 2002, signed by police officer, R Jones No. 13967. Patrick Anene Egbune was wrongfully charged with the following offenses:

1.	Assault/Attempted B	1313
2.	Disorderly Conduct	5311
3.	Harassment	5309

Patrick Anene Egbune pleaded not guilty. The matter was set for pretrial discussion on August 9, 2002. At the pretrial meeting the charge of battery was made and added to the previous charges with Patrick Anene Egbune objecting, on the ground that there is no evidence that will ever support such a charge. Patrick Anene Egbune pleaded not guilty to the charge.

The trial was held on Monday, November 4, 2002 on the following charges:

1. Assault/Attempt B
2. Disorderly conduct
3. Harassment
4. Battery

The court erroneously found Patrick Anene Egbune guilty of disorderly conduct and battery on November 4, 2002. Patrick Anene Egbune hereby appeals the guilty verdict. The truth of the matter was that Patrick Anene Egbune did not commit any of the offences charged. On April 4, 2002, at about 9:00 a.m., Patrick Anene Egbune drove his wife Ndubuisi Egbune to work at Dillards Department store without any argument, dispute or disagreement. At about 6:00 p.m. he went back to pick up his wife who got off at about 6:07 p. m. At about 6:30 p.m., they arrived at the parking lot of their apartment and Ndubuisi Egbune walked out of the car while Patrick Anene Egbune reversed the car and proceeded to J. C. Penney Department store at Aurora Mall, as explained by **Exhibit B** at trial, showing that there was pending sale going on in two days. On the way to Aurora Mall, Patrick Anene Egbune realized that he did not have his wallet containing his driver's license. Patrick Anene Egbune drove back to his apartment rushed in, picked up his wallet, and ran out to his car and went to the mall. Patrick Anene Egbune, came back from the mall at about 9:00 p.m.

When Patrick Anene Egbune got home, his son told him that his mother called police. Patrick Anene Egbune stated "for what". Ndubuisi Egbune stated that she thought that Patrick Anene Egbune needed help taking his medication but that the police stated that Patrick Anene Egbune has done nothing that would be concerning. Patrick Anene Egbune walked down stairs to see if he would find any police officer but none was on sight. Patrick Anene Egbune thought since the police stated that there was nothing of concern then that is the end of it. The whole family prepared and went to bed. The next Patrick Anene Egbune knows is his arrest two (2) months later.

The decision of the court in finding Patrick Anene Egbune guilty was based exclusively on hearsay. In attempt to contradict the testimony of Ndubuisi Egbune, police officer Conner who admitted that he never saw Patrick Anene Egbune

on the premises claimed that Ndubuisi Egbune had told him that she was "shoved" by Patrick Anene Egbune. However, Ndubuisi Egbune's testimony is supported by **EXHIBIT A** that she signed when the police arrived for her call, stating that she was never touched by Patrick Anene Egbune. Police officer Conners' hearsay statements are not supported by any other fact on the record. However, the court based its decision on police officer's unsupportable hearsay. Trial Court **EXHIBIT A**, in police custody, clearly contradicted the police officer's hearsay statement and established that Ndubuisi Egbune told the police officer that there was no assault and battery involved in her calling police. She testified that before she married Patrick Anene Egbune, she was told to call the police if she has concern about Patrick Anene Egbune taking his medication for bi-polar disorder and that was what she did.

The following are the questions and answers made in **EXHIBIT A:**

City of Aurora
Police Department Domestic violence case summary

INJURIES

Were all injuries caused by suspect?

No. Explain: No injuries

Is victim in pain now? No.

Does victim desire medical attention? No.

Victim to hospital. No

Victim seek own aid. **No**

Fire rescue called. **No.**

Anyone else struck by suspect? **No.**

THIS PORTION TO BE COMPLETED BY VICTIM

TO THE VICTIM

Mark the area(s) on the diagrams which identify where you were struck or injured.

Two diagrams of human body frame (front and back). There was no mark anywhere.

<u>VICTIM MUST CIRCLE ANSWERS TO QUESTIONS:</u>

1. **I have physically pointed out to the officer where I was struck. No.**

2. **I have also indicated on the diagrams where I was struck. No.**

3. **I was able to physically point out to the officer the person who struck me. No.**

4. **I have physically pointed out to the officer the object used to strike me. No.**

5. Do you understand all questions? Yes.

6. Have you checked all your answers?Yes.

7. Officer indicated victim's responses because victim unable to mark this portion? NO.

I AFFIRM THIS INFORMATION IS TRUE AND CORRECT

Signed by Ndubuisi Egbune. 4/10/02.

Exhibit A is submitted herein as **Appendix 6**.

The testimony of the prosecution witness at trial, Ndubuisi Egbune is submitted herein as follows:

Direct Testimony:

Page 9, line 3 - Page 11, Line 19 of transcript - **Appendix 1**

17. Okay. And were you home on the date of April 10th, 2002, approximately 8:17 p.m.?

17. Yes.

(17) Who was there at home with you?

IV My two sons.

17. Was Mr. Egbune there?

1. No.

17. Was the police called to that location that evening?

1. Yes.

17. Why were the police called to your apartment?

1. All I needed was help because my husband told me - - he is on medication, and he said whenever I see him behaving like that , that I 'm not used to, that I can call the police, so I did.

17. How was he behaving that made you call the police?

1. He doesn't want to stay in one place, he keep coming and going out and I'm not used to that so – he is on medication I don't know if he has taken his medication that week or not, so I decided to call the police for help.

17. Okay. What kind of help were you expecting to get from the police?

1. Maybe they would tell him tom take his medication or to calm him down.

17. Okay. So Mr. Egbune was there then that night, it's just he was in and out?

1. He was the one that dropped me off from work that day.

17. What time did he drop you off from work?

1. I don't know for sure. I remember 6:30, 6:00, something like that.

17. Did he ever come in the apartment after that?

A. Yeah.

Q. When did he come into the apartment?

A. I don't remember the time.

Q. What happened when he came into the apartment?

A. He still walked in and he keep coming in and going out.

Q. Okay. Did you have any conversation when he came into the apartment?

A. No.

Q. Did you talk to him at all?

A. No.

Q. Did you have any arguments or fights when he came into the apartment?

A. No.

Q. So when you called the police did the police actually come into your apartment?

A. Yes.

Q. And was that officer Conner, who's seated to my left?

A. Yes.

Q. Now when officer Conner came did you tell him why you needed help?

A. I told him that my husband was on medication and that I need help.

Q. Okay. And what did you tell him? What did you ask him to do for you?

A. I told him that I needed help, if they can help me find him because he's under medication so –

Q. Okay. Is that all you told them or did you tell them anything else?

A. That's all I told them.

Sentence was imposed on December 30, 2002. The sentence was that Defendant-Appellant, Patrick Anene Egbune was to pay the sum, including costs of about $967.00.

Patrick Anene Egbune immediately appealed the decision of the municipal court to the Arapahoe District Court. By Judgement on Appeal dated 25th day of July 2003, the district court affirms the decision of the municipal court.

Patrick Anene Egbune hereby petitions for a writ of certiorari to the courts below.

REASONS FOR GRANTING THE WRIT

Patrick Anene Egbune is innocent of all the charges brought against him. This is supported by competent evidence. This is the first and foremost reason to grant the writ. The competent evidence are **the testimony under oath of the prosecution witness, Ndubuisi Egbune, Exhibit A**, which supports her testimony as to what she told the police officer, Exhibit B and the testimony under oath of Patrick Anene Egbune.

The courts below submits that C. R. S. §16-10-201, inconsistent statement of witness - competency of evidence, overrides all evidence. That as a matter of law once a purported inconsistent statement is suggested to a court of law, the court must find the inconsistent evidence as paramount and the controlling evidence of the case. This is ridiculous!!! If this is so, why go to college, why bother to go to graduate school, why even go to law school. There is no basis for common sense. A statement can not be tested by common sense and intelligence.

Patrick Anene Egbune at trial had presented Felicia Aniniba to confirm the statement of Ndubuisi Egbune. The court refused the testimony on the ground that it is consistent. The court needs inconsistent statements only, even though the statement is untrue! This is not the truth finding process. Patrick Anene Egbune submitted the fact that hearsay testimony of officer Conners is false and untrue and that it is accepted Colorado law that hearsay evidence may have probative value when corroborated by "evidence generally recognized as admissible at common law" Santa Fe Energy Co. v. Baca, 673 P. 2d 374, at 375 (Colo. App. 1983).

The residuum of legal evidence must bolster the hearsay evidence before such hearsay may be considered. The court below suggests that C,. R. S. §16-10-201 is the controlling criminal law statute to be applied especially when it allows the court to do no more than accept a purported contradictory statement of a witness as the law of the case. C,. R. S. §16-10-201 is a statute in **derogation** of the common law and should not be use to bolster a witness' statement or foster falsehood.

Why do we talk about the wisdom of Solomon. Simply, find a witness who would say something to the contrary and you "win". Yeh! The wisdom of Solomon was based on common sense. When the officer's testimony was challenged, he never said that he noted Ndubuisi Egbune's purported contradictory statement in his note or record or provide an explanation as to why he did not have Ndubuisi Egbune sign the statement that obviously contradicted her signed statement submitted as **Exhibit A.** Indeed he went to his office and added untrue statements. C,. R. S. §16-10-201 provides avenue for tricks especially to the police. The court must address this problem and abolish the statute. Truth finding is the paramount interest of the law both in civil and criminal cases, thus elevating a statement made in criminal trial beyond what is available in civil trial seems to ignore age old truth seeking process available in all trials.

The motto of the City Attorney's for the City of Aurora, when Patrick Anene Egbune worked there, as a law clerk while in law school was: "Give them due process and hang them". Once defendants have been given a hearing, find them guilty! Judge Stine of the municipal court (the presiding judge selected to decide the case brought against Patrick Anene Egbune) was a prosecutor at the office at the time. Police was never questioned concerning arrests. Patrick Anene Egbune was at the University of Denver participating in moot court activities,

which teaches you to remain with the facts as presented and the law that applies to them, found the statements and the implications of "give them due process and hang them" troubling.

When Patrick Anene Egbune started his practice of law, he had the opportunity to appear with a prosecutor who was a contemporary of Judge Stine, when Patrick Anene Egbune was employed in the City Attorney's Office. The prosecutor lost the case that had more than one charges, in a jury trial. It became big news. Within a few weeks, the prosecutor announced that he was leaving the practice of law to open a restaurant. It is also common in City of Aurora to be charged with crimes you did not commit purposefully to see if the jury would find the defendant guilty of something.

In one case tried before Judge Stine by Patrick Anene Egbune, a juror who the prosecutor could not eliminated by pre-emptory challenge, caused Judge Stine, who recognized the woman, to invite the prosecutor, the woman juror and Patrick Anene Egbune to his chambers. Judge Stine informed Patrick Anene Egbune that the woman was before the court on a similar charge as the one being tried. The woman announced that on listening to the voire dire, it appears that if what Patrick Anene Egbune said about the right to self defense means that self defense is the law in Colorado, then she feels "duped" by the court for failure to consider her legitimate right of self defense in her case. Judge Stine told the woman that, that is why he called her to see if she would forget the court's failure to apply the doctrine of self defense in her case and follow the law as would be presented. The woman stated that it is her obligation to apply the facts to the law, even though she was denied the right. The woman became the jury foreman and the charge against Patrick Anene Egbune's client was dismissed because of self defense.

In the case of Nitashia Smith, probably the last case tried before Patrick Anene Egbune was suspended from the practice of law. The case was before Judge Stine, Aurora municipal court. The judge stated what he called the controlling law on an issue presented to the jury. Patrick Anene Egbune who was prepared with Supreme Court of Colorado decisions on point, decided to read the decision of the Supreme Court that he believed contradicted what the judge said. Judge Stine yelled at Patrick Anene Egbune in open court. In that case the police office submitted a contrary statement to what defendant stated. Patrick Anene Egbune demonstrated to the jury the impossibility of the statement of the police officer by asking the police officer to put Patrick Anene Egbune on hand cuff and to have him seated as he said he seated the defendant. Patrick Anene Egbune then asked the police officer to demonstrate using Patrick Anene Egbune as his "guinea pig" how the defendant could stand and attack him as he alleged. Impossible!! As if trying not to be out done, the prosecution worked a scenario where he is on hand cuff, without his situation being used for any purpose or demonstration of a legitimate point. Obviously, he probably thinks that the fine work of a good lawyer is "acting".

Patrick Anene Egbune did not stop at his demonstrative evidence. He pursued his cross examination to the point where the police officer finally stated exactly what happened which would in the opinion of Patrick Anene Egbune exonerate his client. Immediately, the prosecution called for a recess. On returning from recess, Patrick Anene Egbune who was trying to refresh the mind of the jury of an important statement made prior to the recess, referred the police officer to his statement. It was being denied. Patrick Anene Egbune requested that Judge Stine instruct the court reporter to read the portion of the testimony prior to the recess. Judge Stine refused, stating that

the jury can rely on what they heard. The jury returned a verdict dismissing that part of the charges and the most damaging of all. Judge Stine commented afterwards by telling the defendant that she was saved by Patrick Anene Egbune.

Patrick Anene Egbune believe in fairness and truth. in another case in the municipal court of the City of Aurora, before a different judge, a new prosecutor was squared with Patrick Anene Egbune. On the date of arraignment, the defendant had an argument with the female prosecutor. The defendant was a professional boxer. On the date of trial during the prosecutor's cross examination of the defendant, the prosecutor found it necessary to establish that the defendant engages in arguments and therefore, likely to be the aggressor. Patrick Anene Egbune warned her silently without knowing that the judge was watching, that she was about to cause mistrial. Finally, after three warnings both attorneys appeared at the bench and the judge himself advised her of the problem. If all Patrick Anene Egbune was interested in, was another "win" rather that justice, the prosecutor could have been allowed to proceed and a mistrial declared as the prosecutor becomes a witness. The judge also commented on how refreshing it was to assist a colleague in such a limited manner. While Patrick Anene Egbune was in practice, the young lady never fails to stop and say "hi" each time she sees Patrick Anene Egbune at the municipal court. The adversary system has
limits, it is guarded by ethics.

The above statement about Aurora municipal court is illustrative of how evidence is evaluated. The district court then concluded that since the municipal court was the observer of the witnesses, its evaluation of the witnesses and the evidence should not be challenged even if it flies in the face of common sense and human experience. The district court did not discuss what the municipal court observed that no one else observed

that should change the facts. In the olden days, this was called witchcraft rather than intelligent, articulatible, objective facts - witch hunting is not legal education nor is it common sense and indeed not a substitute for good human intelligence.

THE CITY ATTORNEY'S OFFICE ACTING ON BEHALF OF THE STATE OF COLORADO, DID NOT FILE A RESPONSE TO THE PETITION FOR WRIT OF CERTIORARI FILED BY THE PETITIONER WITH THE SUPREME COURT OF THE STATE OF COLORADO.

CONCLUSION

WHEREFORE, petitioner, Patrick Anene Egbune, requests that a writ of certiorari issue from this honorable court to review the judgment of the Supreme Court of the State of Colorado. In the event that the petition is granted, petitioner requests that the judgment of the court below be reversed, that the cause be remanded, and that the court below be directed to dismiss the charges brought against the petitioner, Patrick Anene Egbune in Aurora municipal court.

It must be noted, that in case 98-1552 filed with the Supreme Court of the United States, part of the issue was the claim by the State of Colorado Supreme Court that the Petitioner herein, did not file the transcript that was the condition precedent to filing the Petition concerning his wrongful suspension from the practice of law. It turned out that the Colorado Supreme Court knew or should have known that its claim was not true.

In case 01-661 filed with the Supreme Court of the United States, the Colorado Supreme stated that:

> Upon consideration of the Record on Appeal, together with the Opening and Answer Briefs filed by the parties, and now being sufficiently advised in the premises, IT IS ORDERED that the Hearing Board's decision be, and hereby is, AFFIRMED.

Petitioner is now in possession of a letter written by **James Sudler** an attorney employed by the Supreme Court of Colorado attorney regulation office, stating that there is no known and established method for "rehabilitation" that the Petitioner could have followed in the attorney regulation's claimed pursuit of rehabilitation before reinstatement of Petitioner to the practice of law, thus violating due process of law. Petitioner herein submitted the issue to the court and obtained the quotation above and no certiorari from the Supreme Court of the United States.

It is time this court establish the rule of law and justice in the Petitioner's case with the State of Colorado. The same **James Sudler** had at another time stated that he was going to use the power of the state to do damage to Petitioner, Patrick Anene Egbune and his family. No disciplinary action was taken against him

The criminal action brought by the city of Aurora on behalf of the State of Colorado is falsely decided against the Petitioner and is in retaliation for cases 98-1552 and 01-661, submitted to The United States Supreme Court by the Petitioner. Further more the fact that the Petitioner received a letter from James Sudler that demonstrates violation of due process by the State of Colorado. As admitted in Sudler's letter, there is no written rules to satisfy the "rehabilitation" requirement for the reinstatement of an attorney under suspension, thus, the requirement is arbitrarily applied. The Supreme Court of the State of Colorado is still pondering on

what to do with the exposure of this new revelation, a letter that confirms what Patrick Anene Egbune submitted to this honorable court. This is the basis of Patrick Anene Egbune's Petition for reinstatement as active attorney that is pending before the Supreme Court of Colorado.

The Supreme Court of the State of Colorado is merely seeking excuse for not issuing the license to practice law that the Petitioner is entitled by law and morality. Petitioner will not join any immoral action including homosexuality in order to practice law. The case brought against the Petitioner is baseless and retaliatory.

The probable cause of Patrick Anene Egbune's persecution, may include the fact that Patrick Anene Egbune is not from Israel nor knows people in Israel. In the case of The People of Colorado v. Kallman S. Elinioff, Colorado attorney license number 18677, published in January, 2004, The Colorado Lawyer, Volume 33, No. 1, pages 127-128, the office of the Presiding Disciplinary Judge of the Supreme Court of Colorado declared that "rehabilitation" requirement for attorney under suspension is met by volunteering to work in the country of Israel. Patrick Anene Egbune has been in suspension from the practice of law since February, 20, 1999 without legal justification. Patrick Anene Egbune was never told what he needs to do, to meet the "rehabilitation" requirement for reinstatement. He paid for continuing legal education. His legal education and the testimonies of his clients were rejected. Based on this case, Patrick Anene Egbune is being asked to go to a foreign country to work as a volunteer, before he can practice law in a country in which he has citizenship. It is clear what Patrick Anene Egbune is up against. He is not from Israel and knows no one from Israel and has no friends in the United States connected to Israel.

The message is clear and understood.

In summer of 2002, Patrick Anene Egbune was attacked at a bus stop on Broadway near the Supreme Court of Colorado building. The individual was a black male accompanied by a white male. The black male inquired as to why Patrick Anene Egbune was challenging the Supreme Court of Colorado about homosexuality. Patrick Anene Egbune did not respond. The black male struck Patrick Anene Egbune on the head and stated that he was a navy seal. The black male raised his leg to kick Patrick Anene Egbune, then observed how serene Patrick Anene Egbune was, he put his leg down and the white male told him to follow him and as they walked away, the black man told Patrick Anene Egbune to go back to Africa, if he is not interested in homosexuality. Probably the persons falsely accusing Patrick Anene Egbune of offenses he did not commit, should themselves face criminal charges. The question is: how did the black person know that Patrick Anene Egbune has a case before the Supreme Court of the State of Colorado and that he takes a bus at the location?

The criminal conducts of those who may be among those wishing since July 23, 2003 to date, that Patrick Anene Egbune volunteers his time in Israel is not discussed. Patrick Anene Egbune has pursued legal procedures, because that is all he knows and he is law abiding and believes that this is a nation of laws.

The "secret" involvement by the state of Colorado and its instrumentality, using its police power and other powers of the state, and involving members of the family of Patrick Anene Egbune in immoral and illicit sexual conduct, which may therefore have culminated in this false charge being brought against him is not fully discussed herein. On August 24, 2002, for example, Patrick Anene

Egbune sent a letter to Honorable John Ashcroft and the Federal Bureau of investigation concerning the illegal activities of **Chuck Odifu Egbune, Esq.** who has a close relationship with **James Sudler** of the Supreme Court of Colorado. Chuck Egbune was able to illegally bring Ikechukwu Egbune to the U. S. A. without his visiting the American Embassy in Nigeria. When he was asked how he got into the U. S. A., Chuck Odifu Egbune, Esq. stated that he has extensive connection in state government and through them to the airline pilots and that he paid money to pilots and officials at the airport in Lagos, Nigeria to allow Ikechukwu to pass and that with his governmental connection here in the U. S. A. and further payments he is able to get him through the airport in Denver, no questions asked. They merely looked at the card and ignore it and the individual walks by. Ikechukwu Egbune is still in the U. S. A. without visa and status. This arrangement for bringing people to the U. S. A. was likely promised to those that may find it lucrative to work against Patrick Anene Egbune on behalf of **James Sudler** of the Supreme Court of the State of Colorado, under the cover of Colorado State power. **The shocking aspect of these facts was the fact that the nation, everybody, was mourning the death of people that lost their lives on September 11, 2001. Yet these people have the audacity to demonstrate how airplanes and the United States airspace can be violated through the corruption of government officials.** These facts would explain the reason why a police officer was called to **Patrick Anene Egbune's home in his absence.** Ndubuisi Egbune, Patrick Anene Egbune's wife worked with City of Aurora Police at her department store. It appears that the decision was to call the police and charges would be imposed on Patrick Anene Egbune no matter the situation.

Emanating from an office under the **Supreme Court of the State of Colorado is Sex, Lies, Crime and Fraud**. This is being directed under the auspices of **James Sudler**. This fact is reported in pain and disappointment A person's wife is trapped to engaged in **humiliating sexual intercourse** in order to become a witness against her husband. If this group can undermine the laws of the United States in other to bring people to the United States to join in **sexual escapade**, imagine what can be concocted against Patrick Anene Egbune. This **corruption is so deeply rooted** that no one dare challenge it in the State. Their victims succumb to the power of the State applied to them. That becomes the end of the matter.

All that Patrick Anene Egbune asks for, is the truth and his good name and the savings of money he is being asked to pay in addition to the **existing insults and injuries** meted against him. What we have as pertains to all charges brought against Patrick Anene Egbune in the State of Colorado is a complete **collapse of law and morality**.

Appendix A, being Order of the Supreme Court of Colorado affirming the decisions of the lower courts without a written opinion, dated January 20, 2004; **Appendix B**, being the Opinion of the District Court, Arapahoe County. State of Colorado, dated July 25, 2003, and **Appendix C**, being the transcript of the Trial Court Decision, dated November 22, 2002 are attached herein. Patrick Anene Egbune **is innocent** of all claims and charges brought so far against him, by the State of Colorado and its organs, cities, counties, employees, agents and representatives. It is this honorable court, the Supreme Court of the United States, as the abetter of justice, that has the power and authority to look into what has been reported herein against the State of Colorado and its system of justice and correct it.

Petitioner, Patrick Anene Egbune, had once brought to the attention of the Supreme Court of the state of Colorado, the

ancient idiomatic expression commonly used as an advice and guidance in his town of birth, Issele-Uku (Isi-ile-Uku) in Africa, viz: "a holy ground that forbids entry by anyone with a bag, must not grow mushrooms, because if it does, complaints concerning entry with bags will not be entertained." This ancient advice has been violated by Colorado Supreme Court.

It is shocking that a person can be convicted of a crime when established fact shows that he was not at the place of the alleged crime at the time and the only witness who should know stated **under oath** that the defendant did not commit any crime. Engaging in sexual intercourse with defendants wives, as a means of turning them into witnesses against defendants as exist in Colorado, prosecuting and then sending to work in Israel or any other country, does not justice make. Consider a situation in which the officials of the state are of German, Irish, English, Japanese, Nigerian(African-Americans), Russian, Italian, etc. descent, and these officials holding everyone hostage, require anyone practicing law to enter into voluntary servitude in the country of the official's origin, as a means of demonstrating "rehabilitation" to practice law. If Mr. Giovani sends us to Italia or Mr. Ogbelani sends us to Issele-Uku or Mr. Moye sends us to Issele-Uku or Ireland, how do we react?

Respectfully submitted,

Patrick Anene Egbune
818 South Chambers Road, #302
Aurora, Colorado 80017
(303)745-7519

Date: 16th day of March, 2004.

APPENDIX

APPENDIX A

ORDER OF THE SUPREME COURT OF COLORADO AFFIRMING THE DECISIONS OF THE LOWER COURTS WITHOUT WRITTEN OPINION.
DATED JANUARY 20, 2004

Case No. 03-SC-647

SUPREME COURT, STATE OF COLORADO
TWO EAST 14TH AVENUE
DENVER, COLORADO 80203

CERTIORARI TO THE DISTRICT COURT,
ARAPAHOE COUNTY, 02-CV-4612
MUNICIPAL COURT, CITY OF AURORA, C-89955

Petitioner:
PATRICK ANENE EGBUNE,
v.
Respondent:
THE PEOPLE OF THE CITY OF AURORA, by and on behalf of the STATE OF COLORADO

ORDER OF COURT

Upon consideration of the Petition for Writ of Certiorari to the District Court of Arapahoe County, and after review of the record, briefs, and judgment of said district court

IT IS THIS DAY ORDER that said Petition for Writ of Certiorari shall be, and the same hereby is denied.

BY THE COURT, EN BANC, January 20, 2004.

Copies mailed via the State's Mail Services Division on .1-20-04.mlk
Patrick Anene Egbune
818 S. Chambers Rd., #302
Aurora, CO 80017

Clerk of the Court
Aurora Municipal Court
14999 E. Alameda Pkwy
Aurora, CO 80012

Aurora City Attorney Office
15001 E. Alameda Dr.
Aurora, CO 80112

Judge Alan C. Stine
Aurora Municipal Court
14999 E. Alameda Pkwy
Aurora, CO 80012

Judge J. Mark Hannen
Arapahoe County Justice Center
7325 S. Potomac St.
Englewood, CO 80112

Clerk of the District Court
Arapahoe County Justice Center
7325 South Potomac Street
Englewood, CO 80112

APPENDIX B

OPINION OF THE DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO DATED JULY 25, 2003

DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO

Court Address:
7325 S. Potomac
Englewood, CO 80112

Plaintiff-Appellee: THE PEOPLE OF THE CITY OF AURORA, BY AND ON BEHALF OF THE STATE OF COLORADO

Defendant-Appellant: PATRICK A. EGBUNE.

Case No. 02-CV-4612

JUDGMENT ON APPEAL

This matter comes before the Court on appeal from Aurora Municipal Court case C89955V01. The issue on appeal is whether there was competent evidence to support the conviction of the Appellant, based on prior inconsistent statement of a witness. This court finds there was sufficient evidence to support the conviction, and that the trial judge correctly allowed prior inconsistent statements as evidence in the case.

FACTS

On April 10, 2002, the Appellant was charged with committing Aurora Municipal Code offenses of Assault, battery, harassment - harmful, painful or offensive contact, and disorderly conduct. On that date, the Appellant and the victim, Ndubuisi Egbune, were married and living together in an apartment at 818 South Chambers Road, Aurora, Colorado 80017. At approximately 8:178 p. m. that evening, Mrs. Egbune called the police to her residence. Aurora Police Officer Stephen Conner was dispatcher, having been notified that the nature of call was a domestic disturbance. Once officer Conner reached the location and entered the residence, he met with Mrs. Egbune, who appeared to be upset and was crying. Mrs. Egbune told Officer Conner that she had been in a verbal altercation with her husband and that during the altercation, he began pushing her and threatened to get a knife to stab her. Mrs. Egbune said she could not remember what provoked the altercation, but mentioned that she thought the Appellant has been off of his medication for bipolar disorder and that he needed to start taking it again. Officer Conner testified that Mrs. Egbune's emotional state was consistent with the incident she described, and that her crying increased when describing the incident to him. Officer Conner testified that he believed he asked Mrs. Egbune to filled out a written statement of the incident, but Mrs. Egbune was too upset to do so at that time. Officer Conner had Mrs. Egbune fill out a domestic case summary, and asked her to complete a portion of that document. Officer Conner testified that the victim failed to mark on that summary where she was struck or injured.

During the trial, Mrs, Egbune testified that there was no dispute with the Appellant on the night in question, and that she only told Officer Conner that the Appellant was on medication and needed help. When confronted with the statements she

made to officer Conner on the night of the incident, Mrs. Egbune repeatedly stated that she did not remember telling the police of any physical altercation or verbal threats.

The Appellant contends that on April 10, 2002, he drove Mrs. Egbune to work at approximately 9:00 a.m. and picked her up at approximately 6:00 p.m. without any arguments or incidents. After leaving his wife at the apartment building at approximately 6:30 p.m., the Appellant immediately left for the mall to shop in anticipation of an upcoming sale. Shortly after leaving, the Appellant realized he forgot his wallet. He returned to the apartment, ran into the house without saying anything to his wife, ran out and went to the mall. Appellant contends that he returned from the mall at approximately 9:00 p.m., stating that he was not at home or present at the time of the incident. Upon returning home, one of the Appellant's sons informed him that Mrs. Egbune had called the police.

The Appellant testified that he never made any physical contact or made any verbal threats to his wife. He testified and contends that he instructed his wife to call the police at any time she saw any sign of his mental illness, because a police officer would be the only person that would be able to appropriately help him. He made statements that he could possibly kill someone or cause an accident as a result of his illness. Because of the fear of such incidents happening, the Appellant instructed his wife to call police to take him to a hospital when she noticed any changes in his behavior.

On December 18, 2002, the Aurora Municipal Court found the Appellant guilty of Battery and Disorderly Conduct - Abusive Language/Threats Creating A Danger of Violence.

DISCUSSION

Where the sufficiency of the evidence to support a guilty verdict is challenged, the appellate court reviews the testimony

in a light most favorable to the prosecution and the fact finder. People v. Jones, 191 Colo. 110, 112, 551 P.2d 706, 707 (1976); People v. Eades, 187 Colo. 74, 75-76, 528 P.2d 382, 383 (1974); People v. Gordon, 178 Colo 406, 408, 498 P.2d 341, 342 (1972); Dodge v. People, 168 Colo. 531, 535, 452 P. 2d 759, 761 (1969). If there is sufficient competent evidence presented to establish each of the essential elements of the crime charged, a guilty verdict may not be overturned by the appellate court, even though there may be conflicts and inconsistencies in the evidence. Jones, 551 P.2d at 707. It is the function of the trial courts, and not the appellate courts, to weigh the evidence and make findings on the pertinent issues. People v. Walker, 666 P. 2d 113, 120 (Colo. 1983); People v. Kelley, 172 Colo. 39, 40, 470 P. 2d 32, 33 (1970).

Appellant appeals his conviction on the ground that the evidence presented at trial was not competent to support the conviction, specifically upon the testimony of Officer Conner concerning victim's prior inconsistent statements to him on April 10, 2002. C. R. S. §16-10-201 controls the admissibility of the prior statement in a criminal case. People v. Saiz, 32 P. 3d 441, 445 (Colo. 2001); People v. Montoya, 740 P. 2d 992, 997-998 (Colo. 1987). C. R. S. §16-10-201 states:

> (1) Where a witness in a criminal trial has made a previous statement inconsistent with his testimony at trial, the previous inconsistent statement may be shown by any otherwise competent evidence and is admissible not only for the purpose of impeaching the testimony of the witness, but also for the purpose of establishing a fact to which his testimony and the inconsistent statement relate, if:
>
> (a) The witness, while testifying, was given an opportunity to explain or deny the

statement or the witness is still available
to give further testimony in the trial; and
(b) The previous inconsistent statement purports to relate to a matter within the witness's own knowledge.

For the purpose of introducing the prior testimony of a witness, the witness' inability to remember a statement is tantamount to a denial that he made the statement. People v. Baca, 633 P. 2d 528, 529 (Colo. App. 1981). Further, where a witness denies or does not remember making a prior statement, extrinsic evidence is admissible to prove that the witness made the prior statement. Baca, 633 P. 2d at 529; Transamerica Insurance Co. v. Pueblo Gas & Fuel Co., 33 Colo. App. 92, 95, 519 P. 2d 1201 (1973).

This court agrees with the trial court and the Appellee that the trial court properly admitted the testimony of Officer Conner concerning the statements made to him by Mrs. Egbune on the evening of April 10, 2002. The transcript of the trial proceedings shows that Mrs. Egbune was asked specifically about inconsistent statement. Mrs. Egbune was given the opportunity to explain or deny each statement, and in each instance, testified that she could not remember whether she had made the statements. Based on the ruling in Baca, Mrs. Egbune's inability to remember the statement is equivalent to denial. Therefore, the prosecution satisfied the foundation requirements of C. R. S. §16-10-201. Further, in accordance with the rulings in Baca and Transamerica Insurance, because Mrs, Egbune did not remember making the prior statement, the extrinsic evidence of Officer Conner's testimony was properly admitted to prove the prior inconsistent statements of Mrs. Egbune. Accordingly, the trial court properly allowed and admitted the testimony of Officer Conner.

In weighing the credibility of conflicting testimony, the trial judge who heard and observed the witnesses has many advantages over the reviewing court. People v. Montoya, 828 P. 2d 251, 254 (Colo. 1992); People v. Parks, 195 Colo. 344, 349, 579 P. 2d 76, 79 (1978). Only where a witness' testimony

is "so palpably incredible and so totally unbelievable" may the appellate court properly reject it as a matter of law. People v. Brassfield, 652 P. 2d 588, 592 (Colo. 1982); People v. Franklin, 645 P. 2d 1, 4 (Colo. 1982). Even where the reviewing court would have come to a different decision than the fact finder, the findings of fact will not be overturned as long as there is some competent evidence to support the verdict. People v. Thomas, 853 P. 2d 1147, 1149 (Colo 1993); People v. Hampton, 758 P. 2d 1344, 1348 (Colo. 1988).

The transcript and the ruling of the trial court shows that the court considered all of the evidence, including the conflicting testimony and the victim's failure to indicate where she was struck or injured on the domestic violence case summary. The court weighed this evidence along with the testimony of Officer Conner of the verbal statements of Mrs. Egbune and his account of the scene on April 10, 2002. Based on the transcript of the proceedings, there is nothing in Officer Conner's testimony that this court could find incredible. Therefore, this court finds the ruling of the trial court cannot be disturbed.

CONCLUSION

The duty of the fact finder is to examine the evidence, and any inconsistencies within the evidence, and to make pertinent findings on such evidence. The statements of Officer Conner provide sufficient evidence to support the conviction. Under C. R. S. 16-10-201, the trial court did not abuse its discretion in admitting such statements into evidence, and the court's findings were consistent with the evidence presented.

AFFIRMED AND REMANDED FOR SENTENCING.

Dated this 25TH day of July, 2003.

BY THE COURT:

J. Mark Hannen

District Court Judge

APPENDIX C

TRIAL COURT DECISION
DATED NOVEMBER 22, 2002

Case No. C-89955

AURORA MUNICIPAL COURT
15001 East Alameda Drive
Aurora, Colorado 80012

THE PEOPLE OF THE CITY OF AURORA, by and on behalf of the STATE OF COLORADO,

Plaintiff,

v.

PATRICK ANENE EGBUNE,

Defendant

TRANSCRIPT OF THE ORDER OF THE COURT AFTER TRIAL

THE COURT:
Thank you. Mr, Egbune, this is a case not unlike anything I see where something happens and the victim calls the police, not so much because they want the criminal justice system to intervene but because they want help for the other party, and I hear that over and over again, and then they're quite surprised when the police arrive and they find the police officer is not a social

worker but is a police officer and if he perceives to have evidence of a crime he proceeds to handle it in the criminal justice system, not in the mental health institution or as a medical issue.

Similarly to those cases, once the victim realizes it's not going to be treated in a therapeutic mode but in a punitive mode they immediately begin retracting everything they said. I have no doubt in my mind that she told the officer that she was pushed and shoved by you and that you threatened to get a knife and stab her. Had she called and wanted them to respond because you were off your medications the officer would not have been dispatched on a call for a person who needs help.

The fact that when it came time to fill out the paperwork she said nothing happened does not really change my view on that. Her inability to state definitely from the stand today that she never said those things supports that view as well. When asked straight up she did not recall, she did not recall, she did not recall, as opposed to no it never happened, no it never happened, no it never happened. **No, I take it back; she said "No, it didn't happen," but she couldn't recall whether or not she said that it happened and that, again, tends to support that it did happen.**

With respect to the words she may have said to the officer, I don't know if those were her words or if that was his rendition of the substance of her words. We never got into the question of whether or not that was a direct quote from her. Your argument that she would never have said it that way doesn't convince me either. From my own experience of living overseas for five years in two different countries where English was not the primary language, vernacular slang are often the first words you pick up in a foreign language if you're not studying it academically; you learn the way people talk. Britishisms crept into my speech when I visited Britain; trucks became lorries and hoods became bonnets and a run in the stocking became a ladder.

If she did not use the word "shove" that doesn't say it didn't happen but that she did pick up some of the vernacular and that's about all. She's a very bright lady, intelligent, well-spoken. Her English is excellent. She has very little of the Nigerian accent, very easy to understand. I don't believe the officer misunderstood her. I believe she complained, and I believe when she told the officer about medications that was her attempt to explain and rationalize and justify what had happened.

MR. EGBUNE: I wasn't there.

THE COURT: Well, I'm entering a finding to the contrary. I would also say this. Given the circumstances, I'm not convinced this is necessarily the type of incident that should carry a domestic violence tag if in fact it was a problem with medications, and I will have that looked at before we enter into sentencing. I'm going to enter a finding of guilty to the charge of Battery. I'm going to enter a finding of not guilty to Assault. It would merge with battery in any event.

To the charge of Disorderly Conduct I'll enter a finding of guilty, order a PSI, and set this over for sentencing in 45 days. Mr. Egbune, go over to the docket window, set a date about 45 days to return, go down to Probation, talk to them, and schedule an appointment for a pre-sentencing investigation to do the interview process.

MR. EGBUNE: Judge, I wasn't there.

THE COURT: I'm sorry?

MR. EGBUNE: I wasn't there.

THE COURT: I understand that. That's what you told me and that's still your position. You will need to do the things I've asked.

Dated at Aurora, Colorado, this 22ND day of November, 2002.
Transcribed by: Jean A. Sertich, Certified Shorthand Reporter
Registered Professional Reporter.
Approved by: Alan C. Stine, Municipal Court Judge